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FOURSQUARE LABS, INC.
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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12 MARC OPPERMAN, et al.,
13 Plaintiffs,
14 v.
15 PATH, INC., et al.
16 Defendants.

Case No. 13-cv-00453-JST

**REPLY IN SUPPORT OF
DEFENDANT FOURSQUARE
LABS, INC.'S MOTION TO
DISMISS SECOND
CONSOLIDATED AMENDED
COMPLAINT**

DATE: December 2, 2014
TIME: 2:00 PM
CTRM: 9

The Honorable Jon S. Tigar

MEMORANDUM OF POINTS AND AUTHORITIES

1
2 Defendant Foursquare Labs, Inc. hereby joins in and adopts the following arguments by
3 its co-defendants:

4 By Defendant Instagram, LLC, the argument regarding Plaintiffs' failure to establish
5 Article III standing; the argument that Plaintiffs have not stated a claim for intrusion of privacy
6 because Plaintiffs have failed to plead harm; and the argument that Plaintiffs have failed to state a
7 claim for conversion;

8 By Defendants Electronic Arts, Inc., Chillingo UK Ltd., Rovio Entertainment Ltd, and
9 ZeptoLab UK Ltd, the argument that Plaintiffs have not stated a claim for intrusion of privacy
10 because accessing Plaintiffs' address book data was not highly offensive;

11 By Defendants Yelp Inc. and Foodspotting, Inc., the argument that Plaintiffs' intrusion
12 and conversion claims are preempted by the Copyright Act; however, Foursquare does not adopt
13 the arguments by Yelp and Foodspotting to the extent they rely on Plaintiffs' consent to
14 Defendants' accessing the address book data.

15 Dated: October 29, 2014

DAVID F. MCDOWELL
MORRISON & FOERSTER LLP

17 By: /s/ David F. McDowell
DAVID F. MCDOWELL

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19 Attorneys for Defendant
FOURSQUARE LABS, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2014, I electronically filed the foregoing with the Clerk of Court using the EM/ECF system which will send a notice of electronic filing to all counsel of record who have consented to electronic notification. I further certify that, to my knowledge, there are no counsel of record in this matter that are not CM/ECF participants.

/s/ David F. McDowell
DAVID F. MCDOWELL